

Panaji, 10th March, 1988 (Phalguna 20, 1909)

SERIES I No. 50

# OFFICIAL GAZETTE

## GOVERNMENT OF GOA

### GOVERNMENT OF GOA

Department of Personnel

#### Notification

1/21/87-PER

In exercise of the powers conferred by the proviso to article 309 of the Constitution, the Governor of Goa, hereby makes the following rules relating to recruitment to the General Central Service, Group 'B', Gazetted posts, in the Directorate of Education (State Institute of Education) Government of Goa, namely: —

#### 1. Short title, application and commencement. —

(1) These rules may be called the Government of Goa, Directorate of Education (State Institute of Education) Group 'B' Gazetted posts, Recruitment Rules, 1988.

2. *Application.* — These rules shall apply to the posts specified in Column 1 of the Schedule to these rules (hereinafter called as the "said Schedule").

(3) They shall come into force from the date of their publication in the Official Gazette.

2. *Number, classification and scales of pay.* — The number of posts, classification of the said posts and the scales of pay attached thereto shall be as specified in columns 2 to 4 of the said Schedule:

Provided that the Government may vary the number of posts in column 2 of the said Schedule from time to time subject to exigencies of work.

3. *Method of recruitment, age limit and other qualifications.* — The method of recruitment to the said posts, age limit, qualifications and other matters

connected therewith shall be as specified in Columns 5 to 13 of the said Schedule.

4. *Disqualification.* — No person who has entered into or contracted a marriage with a person having a spouse living or who, having a spouse living, has entered into or contracted a marriage with any person, shall be eligible for appointment to the service:

Provided that the Government may if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and that there are other grounds for so doing, exempt any person from the operation of this rule.

5. *Power to relax.* — Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing and in consultation with the Union Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons.

6. *Saving.* — Nothing in these rules shall affect reservation, relaxation of age limit and other concessions required to be provided for Scheduled Castes, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in that regard.

7. These rules are issued with the approval of the Union Public Service Commission granted under their letter No. F.3/29(12)/87-RR dated 10-12-87.

By order and in the name of the Governor of Goa.

Smt. Prabha Chandran, Under Secretary (Personnel).

Panaji, 12th January, 1988.

**SCHEDULE**

Name of the post	No. of posts	Classification	Scale of pay	Whether selection post or non-selection post	Age limit for direct recruits	Whether benefit of added years of service admissible under rule 80 of the C.S. (Pension) Rules, 1972	Educational and other qualifications required for direct recruits	Whether age & Educational Qualifications prescribed for the direct recruits will apply in the case of promotees	Period of probation if any	Method of recruitment whether by direct recruitment or by promotion or by deputation/transfer, and percentage of the vacancies to be filled by various methods	In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer is to be made	If a D.P.C. exists, what is its composition	Circumstances in which Union Public Service Commission is to be consulted in making recruitment
1	2	3	4	5	6	6(a)	7	8	9	10	11	12	13
1. Assistant Education Officer (Science).	1 (1988) Subject to variation dependent on workload.	General Central Service 'B' Gazetted.	Rs. 2000-60-2300-EB-75-3200-100-3500.	N.A.	Not exceeding 30 years. (Relaxable for Govt. servants upto 5 years in accordance with the instructions or orders issued by the Central Government). <i>Note:</i> The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than those in Andaman and Nicobar Islands and Lakshadweep).	No.	<p><i>Essential:</i></p> <p>i) Master's degree in Microbiology / Zoology/Botany / Chemistry/Physics from a recognised University or equivalent.</p> <p>ii) Degree/Diploma in Teaching / Education from a recognised University / Institution or equivalent.</p> <p>iii) 2 years experience of teaching and/or educational administration.</p> <p>iv) 3 years experience in dealing with the matters connected with the protection of environment.</p> <p><i>Note 1:</i> Qualifications are relaxable at the discretion of the U.P.S.C. in case of candidates otherwise well qualified.</p> <p><i>Note 2:</i> The qualification(s) regarding experience is/are relaxable at the discretion of the U.P.S.C. in the case of candidates belonging to Scheduled Castes and Scheduled Tribes if, at any stage of selection, the U.P.S.C. is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them.</p> <p><i>Desirable:</i></p> <p>i) Specialisation in curriculum development projects in science.</p> <p>ii) High School pass with Konkani and/or Marathi.</p>	N.A.	Two years	By transfer on deputation failing which by direct recruitment.	<p><i>Transfer on deputation:</i></p> <p>Officers under the Central / State Govts. / Union Territories: —</p> <p>a) i) holding analogous posts on a regular basis; or</p> <p>ii) with 3 years regular service in the scale of Rs. 1640-2900 or equivalent; or</p> <p>iii) with 8 years regular service in the scale of Rs. 1400-2300 or equivalent; and</p> <p>b) possessing the educational qualifications and experience prescribed for direct recruits under Col. 7.</p> <p>(Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/department of the Central Govt. shall ordinarily not exceed 3 years).</p>	Group 'B' D.P.C. (for confirmation). 1. Chief Secretary — Chairman. 2. Administrative Secretary — Member. 3. Director of Education — Member. <i>Note:</i> The Proceedings of the D.P.C. relating to confirmation shall be sent to the Commission for approval. If, however, these are not approved by the Commission a fresh meeting of the D.P.C. to be presided over by the Chairman or a Member of the U.P.S.C. shall be held.	Selection on each occasion shall be made in consultation with the U.P.S.C.

2. Assistant Education Officer (Tech.)	1 (1988) Subject to variation dependent on workload.	General -60- Central Service -75- Group 'B' Gazetted, -100- -3500.	N. A.	Not exceeding 30 years. (Relaxable for Govt. servants upto 5 years in accordance with the instructions or orders issued by the Central Government). Note: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than those in Andaman and Nicobar Islands and Lakshadweep).	No.	Essential: i) Degree in Electrical/ Mechanical Engineering or Technology of a recognised University or equivalent. ii) 3 years teaching experience in a recognised Technical Institution. Note 1: Qualifications are relaxable at the discretion of the U.P.S.C. in case of candidates otherwise well qualified. Note 2: The qualification(s) regarding experience is/are relaxable at the discretion of the U.P.S.C. in the case of candidates belonging to Scheduled Castes and Scheduled Tribes if, at any stage of selection, the U.P.S.C. is of the opinion that sufficient number of candidates from these communities possessing the requisite experience are not likely to be available to fill up the vacancies reserved for them. Desirable: i) Degree / Diploma in Teaching / Education from a recognised University or equivalent. ii) High School pass with Konkani and/or Marathi.	N. A.	Two years	By transfer on deputation falling which by direct recruitment.	Transfer on deputation: Officers under the Central / State Govts. / Union Territories: — a) i) holding analogous posts on a regular basis; or ii) with 3 years regular service in posts in the scale of Rs. 1640-2900 or equivalent; or iii) with 8 years regular service in the scale of Rs. 1400-2300 or equivalent; and b) possessing the educational qualifications and experience laid down for direct recruits under Col. 7. (Period of deputation including period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/department of the Central Govt. shall ordinarily not exceed 3 years).	Group 'B' D. P. C. 1. Chief Secretary — Chairman. 2. Administrative Secretary — Member. 3. Director of Education — Member. Note: The Proceedings of the D.P.C. relating to confirmation shall be sent to the Commission for approval. If, however, these are not approved by the Commission a fresh meeting of the D.P.C. to be presided over by the Chairman or a Member of the U. P. S. C. shall be held.	Selection on each occasion shall be made in consultation with the U.P.S.C.
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## Law (Legal and Legislative Affairs) Department

## The Expenditure Tax Act, 1987

## Notification

LD/1/87/LAB/Part file

The Expenditure-tax Act, 1987 (Act No. 35 of 1987) which was passed by Parliament and assented to by the President of India on 14th September, 1987 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 14th September, 1987 is hereby republished for general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 27th November, 1987.

## The Expenditure-tax Act, 1987

## ARRANGEMENT OF SECTIONS

## Sections

1. Short title, extent and commencement.
2. Definitions.
3. Application of the Act.
4. Charge of expenditure-tax.
5. Meaning of chargeable expenditure.
6. Tax authorities.
7. Collection and recovery of expenditure-tax.
8. Person responsible for collecting tax to furnish prescribed return.
9. Assessment.
10. Best judgment assessment.
11. Chargeable expenditure escaping assessment.
12. Rectification of mistake.
13. Time limit for completion of assessment and reassessment.
14. Interest on delayed payment of expenditure-tax.
15. Penalty for failure to collect or pay expenditure-tax.
16. Penalty for failure to furnish prescribed return.
17. Penalty for concealment of chargeable expenditure.
18. Penalty for failure to comply with notice.
19. Penalty not to be imposed in certain cases.
20. Notice of payment.
21. Revision of orders by the Commissioner.
22. Appeals to the Commissioner (Appeals).
23. Appeals to Appellate Tribunals.
24. Application of provisions of Income-tax Act.
25. Wilful attempt to evade tax, etc.
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27. False statement in verification, etc.
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29. Certain offences to be non-cognizable.
30. Institution of proceedings and composition of offences.
31. Power to make rules.
32. Power to remove difficulties.
33. Consequential amendments.

AN  
ACT

to provide for the levy of a tax on expenditure incurred in certain hotels.

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Expenditure-tax Act, 1987.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(1) “assessee” means a person responsible for collecting the expenditure-tax payable under the provisions of this Act;

(2) “assessment year” means the period of twelve months commencing on the 1st day of April every year;

(3) “Board” means the Central Board of Direct Taxes constituted under the Central Boards of Revenue Act, 1963;

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(4) “chargeable expenditure” means the expenditure referred to in section 5;

(5) “expenditure-tax” or “tax” means the tax chargeable under the provisions of this Act;

(6) “hotel” includes a building or part of a building where residential accommodation is, by way of business, provided for a monetary consideration;

(7) “Income-tax Act” means the

43 of 1961.

(8) “person responsible for collecting” means a person who is required to collect tax under this Act or is required to pay any other sum of money under this Act and includes—

(a) every person in respect of whom any proceedings under this Act have been taken, and

(b) every person who is deemed to be an assessee-in-default under any provision of this Act;

(9) “prescribed” means prescribed by rules made under this Act;

(10) “room charges” means the charges for a unit of residential accommodation in a hotel and includes the charges for—

(a) furniture, air-conditioner, refrigerator, radio, music, telephone, television, and

(b) such other services as are normally included by a hotel in room rent,

but does not include charges for food, drinks and any services other than those referred to in sub-clauses (a) and (b);

(11) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

3. *Application of the Act.* — (1) Subject to the provisions of sub-section (2) and sub-section (3), this Act shall apply in relation to any chargeable expenditure incurred in a hotel wherein, the room charges for any unit of residential accommodation at the time of the incurring of such expenditure are four hundred rupees or more per day per individual.

(2) Where a composite charge is payable in respect of residential accommodation and food, the room charges included therein shall be determined in the prescribed manner.

(3) Where—

(i) a composite charge is payable in respect of residential accommodation, food, drinks and other services, or any of them, and the case is not covered by the provisions of sub-section (2), or

(ii) it appears to the Income-tax Officer that the charges for residential accommodation, food, drinks or other services are so arranged that the room charges are understated and the other charges are overstated,

the Income-tax Officer shall, for the purposes of sub-section (1), determine the room charges on such reasonable basis as he may deem fit.

4. *Charge of expenditure-tax* — Subject to the provisions of this Act, there shall be charged on and from the commencement of this Act, a tax at the rate of ten per cent. of the chargeable expenditure.

5. *Meaning of chargeable expenditure.* — For the purposes of this Act, chargeable expenditure means any expenditure incurred in, or payments made to, a hotel to which this Act applies, in connection with the provision of,—

(a) any accommodation, residential or otherwise; or

(b) food or drink by the hotel, whether at the hotel or outside, or by any other person at the hotel; or

(c) any accommodation in such hotel on hire or lease; or

(d) any other services at the hotel, either by the hotel or by any other person, by way of beauty parlour, health club, swimming pool or other similar services,

but does not include—

(i) any expenditure which is incurred, or the payment for which is made, in foreign exchange;

(ii) any expenditure incurred by persons within the purview of the Vienna Convention on Diplomatic Relations, 1961, or the Vienna Convention on Consular Relations, 1963;

(iii) any expenditure incurred in any shop or in any office which is not owned or managed by the person who carries on the business of a hotel;

(iv) any expenditure by way of any tax, including tax under this Act.

*Explanation.* — For the purposes of this section,—

(a) expenditure incurred or any payment made in Indian currency obtained by conversion of foreign exchange into Indian currency shall in such cases and in such circumstances as may be prescribed be deemed to have been incurred or, as the case may be, made in foreign exchange; and

(b) “foreign exchange” and “Indian currency” shall have the meanings respectively assigned to them in clauses (h) and (k) of section 2 of the Foreign Exchange Regulation Act, 1973.

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6. *Tax authorities.* — (1) Every Director of Inspection, Commissioner of Income-tax, Commissioner of Income-tax (Appeals), Inspecting Assistant Commissioner of Income-tax, Income-tax Officer and Inspector of Income-tax shall have the like powers and perform the like functions under this Act as he has and performs under the Income-tax Act, and for the exercise of his powers and the performance of his functions, his jurisdiction under this Act shall be the same as he has under the Income-tax Act.

(2) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be issued—

(a) so as to require any tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(b) so as to interfere with the discretion of the Commissioner (Appeals) in the exercise of his appellate functions.

(3) Every Income-tax Officer employed in the execution of this Act shall observe and follow the orders, instructions and directions issued for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.

7. *Collection and recovery of expenditure-tax* — (1) Where any chargeable expenditure is incurred in a hotel to which this Act applies,—

(i) if such expenditure relates to any of the services, specified in clauses (a) to (d) of section 5, provided by the hotel, the person who carries on the business of such hotel; and

(ii) if such expenditure relates to any of the services, specified in clause (b) or clause (d) of section 5, provided by the other person referred to therein, such other person,

shall collect the expenditure-tax at the rate specified in section 4.

(2) The tax collected during any calendar month in accordance with the provisions of sub-section (1) shall be paid to the credit of the Central Govern-

ment by the 10th day of the month immediately following the said calendar month.

(3) Any person responsible for collecting the tax who fails to collect the tax in accordance with the provisions of sub-section (1) shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (2).

8. *Person responsible for collecting tax to furnish prescribed return.* — (1) Every person responsible for collecting the tax shall before the expiry of four months from 31st day of March in each year, furnish or cause to be furnished to the Income-tax Officer in the prescribed form and verified in the prescribed manner, a return in respect of the immediately preceding financial year showing —

- (a) the aggregate of the payments received in respect of chargeable expenditure;
- (b) the amount of the tax collected;
- (c) the amount of the tax paid to the credit of the Central Government; and
- (d) such other particulars as may be prescribed.

(2) In the case of any person who, in the opinion of the Income-tax Officer, is responsible for collecting tax under this Act and who has not furnished a return under sub-section (1), the Income-tax Officer may, before the expiry of the financial year in which the return is to be furnished, issue a notice to him and serve the same upon him, requiring him to furnish within thirty days from the date of service of the notice the return in the prescribed form and verified in the prescribed manner setting forth such other particulars as may be prescribed.

(3) Any person responsible for collecting the tax who has not furnished the return within the time allowed under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2) discovers any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

9. *Assessment.* — (1) For the purpose of making an assessment under this Act, the Income-tax Officer may serve on any person who has furnished a return under section 8 or upon whom a notice has been served under sub-section (2) of section 8 (whether a return has been furnished or not) a notice requiring him on a date therein to be specified, to produce or cause to be produced such accounts or documents or other evidence as the Income-tax Officer may require for the purposes of this Act and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(2) The Income-tax Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section (1) and after taking into account any relevant material which he has gathered, shall, by an order in writing, assess the chargeable expenditure and the amount of tax payable on the basis of such assessment.

10. *Best judgment assessment.* — If —

- (a) any person fails to make the return required by any notice given under sub-section (2) of

section 8 and has not made a return or a revised return under sub-section (3) of that section, or

(b) any person having made a return fails to comply with all the terms of a notice issued under sub-section (1) of section 9, or

(c) the Income-tax Officer is not satisfied with the correctness or the completeness of the accounts of the assessee,

the Income-tax Officer, after taking into account all the relevant material which he has gathered, shall, by an order in writing, make the assessment of the chargeable expenditure to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

11. *Chargeable expenditure escaping assessment.* — If —

(a) the Income-tax Officer has reason to believe that by reason of omission or failure on the part of the assessee to make a return under section 8 for any assessment year or to disclose wholly and truly all material facts necessary for his assessment for any assessment year, chargeable expenditure for that year has escaped assessment or has been under assessed, or

(b) notwithstanding that there has been no omission or failure as mentioned in clause (a) on the part of the assessee, the Income-tax Officer has, in consequence of information in his possession, reason to believe that chargeable expenditure assessable in any assessment year has escaped assessment or has been under-assessed,

he may, in cases falling under clause (a), at any time, and in cases falling under clause (b), at any time within four years from the end of that assessment year, serve on the assessee a notice containing all or any of the requirements which may be included in a notice under section 8 and may proceed to assess or reassess the chargeable expenditure, and the provisions of this Act shall, so far as may be, apply, as if the notice was a notice issued under that section.

12. *Rectification of mistake.* — (1) With a view to rectifying any mistake apparent from the record, the tax authority referred to in section 6 which passed any order under the provisions of this Act may, within four years of the date on which such order was passed, amend the order.

(2) Where any matter has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) Subject to the other provisions of this section, the authority concerned —

- (a) may make an amendment under sub-section (1) of its own motion, and

(b) shall make such amendment if any mistake is brought to its notice, —

- (i) by the assessee; or



(ii) where the authority concerned is the Commissioner (Appeals), by the Income-tax Officer.

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and as allowed the assessee a reasonable opportunity of being heard.

(5) Where an amendment is made under this section, an order shall be passed in writing by the tax authority concerned.

(6) Subject to the other provisions of this Act where any such amendment has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

(7) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable and such notice of demand shall be deemed to be issued under section 20 and the provisions of this Act shall apply accordingly.

**13. Time limit for completion of assessment and reassessment** — (1) No order of assessment shall be made under section 9 or section 10 at any time after the expiration of a period of four years from the end of the assessment year in which the chargeable expenditure was first assessable, or one year from the date of the filing of the return or revised return under section 8, whichever is later.

(2) No order of assessment or reassessment shall be made under section 11, —

(a) where the assessment or reassessment is to be made in a case falling within clause (a) of section 11 for which a notice has been served upon the assessee, at any time after the expiration of a period of four years from the end of the assessment year in which the said notice was served;

(b) where the assessment or reassessment is to be made in a case falling within clause (b) of section 11, for which a notice has been served, after the expiration of a period of —

(i) four years from the end of the assessment year in which the chargeable expenditure was first assessable, or

(ii) one year from the date of service of such notice,

whichever is later.

(3) Notwithstanding anything contained in sub-sections (1) and (2), an order of fresh assessment in pursuance of an order passed under section 21, section 22 or section 23, setting aside or cancelling an assessment, may be made at any time before the expiry of four years from the end of the financial year in which the order under section 21 is passed by the Commissioner, or, as the case may be, the order under section 22 or section 23 is received by the Commissioner.

(4) The provisions of sub-sections (1) and (2) shall not apply to the assessment or reassessment made in consequence of, or to give effect to, any finding or direction contained in an order under section 21, section 22, section 23 or any order of a High Court or Supreme Court in a proceeding by way of reference or appeal under this Act or any order of any court in a proceeding otherwise than by way of an appeal or reference under this Act and such assessment or reassessment may, subject to the provisions of sub-section (3), be completed at any time.

**Explanation.** — In computing the period of limitation for the purposes of this section, the period during which the assessment proceeding is stayed by an order or injunction of any court shall be excluded.

**14. Interest on delayed payment of expenditure-tax.** — Every person responsible for collecting expenditure-tax and paying it to the credit of the Central Government in accordance with the provisions of section 7, who fails to credit the tax to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one and one half per cent. for every month or part of a month by which such crediting of tax is delayed.

**15. Penalty for failure to collect or pay expenditure-tax.** — Any person responsible for collecting expenditure-tax in accordance with the provisions of sub-section (1) of section 7, who —

(a) fails to collect such tax; or

(b) having collected the tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section (2) of that section,

shall pay, —

(i) in the case referred to in clause (a), in addition to paying tax in accordance with the provisions of sub-section (3) of that section, by way of penalty, a sum equal to the amount of tax that he failed to collect; and

(ii) in the case referred to in clause (b), in addition to paying interest in accordance with the provisions of section 14, by way of penalty, a sum which shall not be less than one hundred rupees, but which may extend to two hundred rupees for every day during which the failure continues.

**16. Penalty for failure to furnish prescribed return.** — If a person fails to furnish in due time the return which he is required to furnish under sub-section (1) of section 8 or by notice given under sub-section (2) of that section, he shall pay, by way of penalty, a sum which shall not be less than one hundred rupees, but which may extend to two hundred rupees for every day during which the failure continues.

**17. Penalty for concealment of chargeable expenditure.** — If the Income-tax Officer or the Commissioner (Appeals) in the course of any proceedings under this Act is satisfied that any person has concealed particulars of chargeable expenditure or

has furnished inaccurate particulars of such chargeable expenditure, he may direct that such person shall pay by way of penalty, in addition to any expenditure-tax payable by him, a sum which shall not be less than, but which shall not exceed twice, the amount of tax sought to be evaded by reason of concealment of particulars of chargeable expenditure or the furnishing of inaccurate particulars of such chargeable expenditure:

Provided that if the amount of chargeable expenditure (as determined by the Income-tax Officer on assessment) in respect of which particulars have been concealed or inaccurate particulars have been furnished exceeds a sum of twenty-five thousand rupees, the Income-tax Officer shall not issue any direction for payment by way of penalty without the previous approval of the Inspecting Assistant Commissioner.

18. *Penalty for failure to comply with notice.* — If the Income-tax Officer in the course of any proceedings under this Act is satisfied that any person has failed to comply with a notice under sub-section (1) of section 9, he may direct that such person shall pay, by way of penalty, in addition to any tax payable by him, a sum which shall not be less than ten per cent. but which shall not exceed fifty per cent. of the amount of the tax, if any, which would have been avoided if the chargeable expenditure returned by such person had been accepted as the correct chargeable expenditure.

19. *Penalty not to be imposed in certain cases.* — Notwithstanding anything contained in the provisions of section 15, section 16, section 17 or section 18, no penalty shall be imposed on the assessee for any failure referred to in the said provisions if he proves that there was reasonable cause for the said failure.

20. *Notice of demand.* — When any tax, interest, penalty or any other sum is payable under this Act, the Income-tax Officer shall serve upon the assessee a notice of demand in the prescribed form, specifying the sum so payable and the amount of chargeable expenditure in relation to which such sum is payable.

21. *Revision of orders by the Commissioner.* — (1) The Commissioner may, either of his own motion or on application by the assessee for revision, call for the record of a proceeding under this Act which has been taken by the Income-tax Officer subordinate to him and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such order thereon as he thinks fit.

(2) No order which is prejudicial to the assessee shall be passed under this section unless the assessee has been given an opportunity of being heard.

(3) No order under this section shall be passed by the Commissioner, if an appeal against the notice of demand issued by the Income-tax Officer under section 20 is pending before the Commissioner (Appeals).

(4) No order under this section shall be passed after the expiry of two years from the end of the financial year in which the order sought to be reviewed has been passed.

22. *Appeals to the Commissioner (Appeals).* — (1) Any person objecting to the amount of expenditure-tax for which he is assessed by the Income-tax Officer, or denying his liability to be assessed under this Act, or objecting to an order levying penalty under this Act, may appeal to the Commissioner (Appeals).

(2) Every appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) An appeal shall be presented within thirty days of the receipt of the notice of demand relating to tax, interest or penalty under this Act:

Provided that the Commissioner (Appeals) may admit an appeal after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(4) The Commissioner (Appeals) shall hear and determine the appeal and, subject to the provisions of this Act, pass such orders as he thinks fit and such orders may include an order enhancing the assessment or penalty:

Provided that an order enhancing the assessment or penalty shall not be made unless the person affected thereby has been given a reasonable opportunity of showing cause against such enhancement.

(5) The procedure to be adopted in the hearing and determination of the appeals shall, with any necessary modification, be in accordance with the procedure applicable in relation to income-tax.

23. *Appeals to Appellate Tribunals.* — (1) Any assessee aggrieved by an order passed by a Commissioner under section (21), or an order passed by a Commissioner (Appeals) under any provision of this Act, may appeal to the Appellate Tribunal against such order.

(2) The Commissioner may, if he objects to any order passed by the Commissioner (Appeals) under any provision of this Act, direct the Income-tax Officer to appeal to the Appellate Tribunal against the order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the order sought to be appealed against is communicated to the assessee or to the Commissioner, as the case may be.

(4) The Income-tax Officer or the assessee, as the case may be, on receipt of a notice that an appeal against the order of the Commissioner (Appeals) has been preferred under sub-section (1) or sub-section (2) by the other party may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner (Appeals), and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is



satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall, except in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4), be accompanied by a fee of two hundred rupees.

(7) Subject to the provisions of this Act, in hearing and making an order on any appeal under this section, the Appellate Tribunal shall exercise the same powers and follow the same procedure as it exercises and follows in hearing and making an order on any appeal under the Income-tax Act.

**24. Application of provisions of Income-tax Act.** — The provisions of the following sections and Schedules of the Income-tax Act and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time, shall apply with necessary modifications as if the said provisions and the rules referred to expenditure-tax instead of to income-tax: —

2(43B) and (44), 118, 125, 125A, 128 to 136 (both inclusive), 138, 140, 144A, 159 to 163 (both inclusive), 166, 167, 170, 171, 173 to 179 (both inclusive), 187, 188, 189, 220 to 227 (both inclusive), 229, 231, 232, 237 to 245 (both inclusive), 254 to 262 (both inclusive), 265, 266, 268, 269, 278B, 278C, 278D, 278E, 281, 281B, 282, 283, 284, 287, 288, 288A, 288B, 289 to 293 (both inclusive), the Second Schedule and the Third Schedule:

Provided that references in the said provisions and rules to the "assessee" shall be construed as references to an assessee as defined in this Act.

**25. Wilful attempt to evade tax, etc.** — If a person wilfully attempts in any manner whatsoever to evade collection or payment of any tax, penalty or interest chargeable or impossible under this Act, or to understate the aggregate of the chargeable expenditure, he shall, without prejudice to any penalty that may be impossible on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

**Explanation.** — For the purposes of this section, a wilful attempt to evade collection or payment of any tax, penalty or interest chargeable or impossible under this Act shall include a case where any person —

(i) has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or

(ii) makes or causes to be made any false entry or statement in such books of account or other documents; or

(iii) wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or

(iv) causes any other circumstances to exist which will have the effect of enabling such person to evade collection or payment of any tax, penalty or interest chargeable or impossible under this Act.

**26. Failure to furnish prescribed returns.** — If a person fails to furnish in due time the return which he is required to furnish under sub-section (1) of section 8 or by a notice given under sub-section (2) of that section, he shall, without prejudice to any penalty that may be impossible on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

**27. False statement in verification, etc.** — If a person makes a statement in any verification under this Act or any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

**28. Abetment of false return, etc.** — If a person abets or induces in any manner another person to make and deliver an account or a statement or declaration relating to any chargeable expenditure which is false and which he either knows to be false or does not believe to be true or to commit an offence under section 25, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

**29. Certain offences to be non-cognizable.** — Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under section 25 or section 26 or section 27 or section 28 shall be deemed to be non-cognizable within the meaning of that Code. 2 of 1974.

**30. Institution of proceedings and composition of offences.** — (1) A person shall not be proceeded against for any offence under section 25 or section 26 or section 27 or section 28, except with the previous sanction of the Commissioner:

Provided that no such sanction shall be required where the complainant before the court is a Commissioner (Appeals).

(2) The Commissioner may, either before or after the institution of proceedings, compound any offence punishable under section 25 or section 26 or section 27 or section 28.

**31. Power to make rules.** — (1) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the manner in which the room charges may be determined under sub-section (2) of section 3 in cases where composite charges are payable in respect of residential accommodation and food;

(b) the cases and the circumstances in which payments made in Indian currency by conversion of foreign exchange into Indian currency shall be

deemed to have been made in foreign exchange for the purposes of clause (a) of the *Explanation* to section 5;

(c) the form in which returns under section 8 may be furnished, the manner in which they may be verified and the other particulars which a form may contain;

(d) the form in which a notice of demand may be served on the assessee under sub-section (7) of section 12;

(e) the form in which appeals under section 22 or under sub-section (6) of section 23 may be filed and the manner in which they may be verified;

(f) the manner in which a memorandum of cross-objections under sub-section (4) of section 23 may be verified;

(g) any other matter which by this Act is to be or may be prescribed.

(3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date of commencement of this Act.

(4) The Central Government shall cause every rule made under this section to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both

Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

32. *Power to remove difficulties.* — If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty: 54 of 1963.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

33. *Consequential amendments.* — (1) In section 2 of the Central Boards of Revenue Act, 1963, in sub-clause (1) of clause (c), —

(a) in item (viii), the word "and" occurring at the end shall be omitted;

(b) after item (viii) as so amended, the following item shall be inserted, namely: —

"(ix) the Expenditure-tax Act, 1987; and".

(2) In the Economic Offences (Inapplicability of Limitation) Act, 1974, in the Schedule, after entry 2B relating to the Hotel-Receipts Tax Act, 1980, the following entry shall be inserted, namely: — 12 of 1974. 54 of 1980.

"2C. The Expenditure-tax Act, 1987".